IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Bail Appl..No. 5803 of 2007()

CRIME NO. 489/07 OF VIYYUR POLICE STATION

APPLICANT/ACCUSED

LATHA P.V., W/O.K.L.SIMON, KOTHOOR HOUSE, P.O.OLLUKKARA, PARAVATTANI, THRISSUR.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING THE S.I. OF VIYYUR POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5803 of 2007

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Dated this the 8th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner, a woman, faces allegations, inter alia, under Sections 420 and 468 I.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The petitioner is a Junior Superintendent working in the Police Academy. The crux of the allegations against her is that she got a police constable to apply for loan for her own purpose. She offered herself as one of the sureties. The defacto complainant had never offered himself as one of the sureties. But he was shown as one surety. His signature was forged. His salary certificate was made use of. The petitioner took the entire loan amount. The defacto complainant later knew about the alleged forgery and misappropriation of amounts. He accordingly filed the complaint. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is prayed that directions under Section 438 Cr.P.C. may be issued in favour of the petitioner.

3. The learned Prosecutor opposes the application. He submits that there are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner.

4. The learned counsel for the petitioner submits that amounts have been/shall be paid. Sufficient time has been given. The amount has not been paid and the liability of the defacto complainant has not been discharged so far. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. Needless to say, if the petitioner satisfies the learned Magistrate that the entire amount has been paid and discharged, the learned Magistrate shall take note of that circumstance also as one relevant inputs while considering the claim for regular bail of the petitioner.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate

and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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